

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MARILYN KUNELIUS,

Plaintiff,

v.

TOWN OF STOW, et al.

Defendants.

CIVIL ACTION NO. 05-11697-GAO

**ASSENTED-TO EMERGENCY MOTION FOR LEAVE TO TAKE ONE
DEPOSITION AFTER CLOSE OF FACT DISCOVERY**

Pursuant to Rule 30 of the Federal Rules of Civil Procedure and Local Rule 16.1, Defendants the Trust for Public Land (“TPL”), Craig A. MacDonnell, and the Town of Stow hereby move for leave to take a single deposition, that of non-party James Boothroyd, after the close of fact discovery. Plaintiff has no objection to this request and has assented to this motion.

As grounds for this motion, defendants state as follows:

1. Defendants TPL, Craig A. MacDonnell, and the Town of Stow have subpoenaed an individual, James Boothroyd, for a deposition to be held on March 20, 2007 pursuant to Rules 45 and 30(b)(1) of the Federal Rules of Civil Procedure.
2. Mr. Boothroyd, who is not a party to this action, prepares income tax returns by profession. As a result, his time between now and the deadline for tax filings on April 17, 2007 is extremely limited.

3. On March 12, 2007, Mr. Boothroyd called counsel for TPL and requested that his deposition be held after the deadline for tax filings because of his demanding schedule between now and April 17, 2006.
4. Currently, fact discovery is scheduled to end on April 6, 2007, pursuant to the Joint Statement of the Parties Pursuant to Fed. R. Civ. P. 16(b), 26(f) and Local Rule 6.1, and the Court's order of November 6, 2006.
5. Plaintiff and Defendants all agree to the taking of Mr. Boothroyd's deposition after the close of fact discovery on April 6, 2007 in order to accommodate the schedule of this non-party witness.
6. Defendants further agree that they do not anticipate seeking to conduct any other discovery following April 6, 2007, except for Mr. Boothroyd's deposition and any additional discovery that might be ordered following resolution of any timely-filed discovery motions.
7. Defendants bring this motion before the Court as an Emergency Motion and request an expedited ruling, due to the fact that Mr. Boothroyd's deposition is currently scheduled to be held on March 20, 2007 and that fact discovery is currently scheduled to end on April 6, 2007.

WHEREFORE, Defendants respectfully request the Court grant them leave to take the deposition of James Boothroyd after the close of fact discovery.

Respectfully submitted,

THE TOWN OF STOW

By its attorneys,

/s/ Deborah I. Ecker

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CRAIG A. MACDONNELL,

By his attorneys,

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THE TRUST FOR PUBLIC LAND

By its attorneys,

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Dated: March 15, 2007

CERTIFICATION UNDER LOCAL RULE 7.1 AND LOCAL RULE 37.1

AND CERTIFICATE OF SERVICE

I, Dahlia Fetouh, hereby certify that counsel for The Trust for Public Land conferred with Michael McLaughlin, counsel for Plaintiff, in a good faith attempt to resolve or narrow the issues in this motion prior to its filing. The parties were able to reach agreement on the issues in this motion and therefore file this motion jointly.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on March 15, 2007.

/s/ Dahlia S. Fetouh

Dahlia S. Fetouh